

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

**JERRY KIRSCH, individually and as Co-
Trustee of the JERRY KIRSCH LIVING
TRUST, and KATHLEEN KIRSCH, as Co-
Trustee of the JERRY KIRSCH LIVING
TRUST,**

Plaintiffs,

v.

HONORABLE DENISE PAGE HOOD

**CANON USA, INC. and CANON
COMPUTER SYSTEMS, INC.,**

Case No. 00-72775

**XEROX CORPORATION and SAMSUNG
ELECTRONICS CO., LTD, an intervenor,**

Case No. 00-72778

Defendants.

**ORDER RE: MOTIONS FOR PERMISSION TO MOVE TO
COMPEL DEFENDANTS TO PRODUCE DAMAGES DISCOVERY
AND TO SUPPLEMENT DISCOVERY RESPONSES**

On July 27, 2007, the Court held a hearing on Plaintiffs' Motion for Permission to Move to Compel Defendants to Produce Damages Discovery and to Supplement Discovery Responses and, for the reasons set forth on the record,

IT IS ORDERED that Plaintiffs' Motions for Permission to Move to Compel Defendants to Produce Damages Discovery and to Supplement Discovery Responses (**Case No. 02-72775, Docket No. 42, 2/23/07** and **Case No. 02-72778, Docket No. 64, 2/23/07**) are GRANTED IN PART as follows:

1. Financial Information of Accused Machines: Representatives from Canon and Xerox must perform a diligent search for any other financial information on the accused products. Any financial information found on the accused products shall be produced to Plaintiffs by August 27, 2007. If no other information is found,

the representatives must sign an affidavit indicating that no such information can be found after a diligent search.

2. Supplementation of Discovery: Canon and Xerox shall supplement their discovery responses with information available through the close of the fact discovery date, February 24, 2006, to Interrogatories Nos. 1, 2, 9, 10, and 12 and Document Requests Nos. 1, 3, 4, 5, 8, 11 to 14 by August 27, 2007.

3. Ink Cartridges Data: Plaintiffs will review the ink cartridges charts/lists previously provided by Canon and Xerox to further narrow Plaintiffs' request. Canon and Xerox will determine what type of financial information is available regarding the ink cartridges manufactured by Canon and Xerox and used in the accused machines. Canon and Xerox are to be prepared to produce financial data if such data is available. The parties are to exchange further information on this issue by August 27, 2007. The parties will update the Court in this issue at the next status conference.

4. Asset Purchase Agreement: Xerox will provide Plaintiffs a copy of the signed Asset Purchase Agreement with Danko by August 27, 2007. Plaintiffs will review the Index of the Exhibits and the Exhibits to narrow their request for further documents relating to the Asset Purchase Agreement.

5. Laches and Estoppel Supplementation Discovery: Plaintiffs may depose Xerox's laches and estoppel fact witness, Mark Costello, for four (4) more hours over new documents only not previously produced when Mr. Costello was previously deposed. Plaintiffs shall have until the end of the damages discovery to redepose Mr. Costello.

IT IS FURTHER ORDERED that a Status Conference will be held in this matter on **Tuesday, September 11, 2007, 2:30 p.m.** to update the Court on the outstanding issues noted above and to set a damages discovery schedule in this case.

/s/ DENISE PAGE HOOD
DENISE PAGE HOOD
United States District Judge

DATED: September 11, 2007